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COMMISSION ON HUMAN RIGHTS

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SUMMARY RECORD OF THE 30th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 6 April 2000, at 10 a.m.

Chairman: Mr. SIMKHADA (Nepal)

CONTENTS

STATEMENT BY THE DEPUTY MINISTER FOR FOREIGN AFFAIRS OF SAUDI ARABIA

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

(a) TORTURE AND DETENTION

(b) DISAPPEARANCES AND SUMMARY EXECUTIONS

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GE.00-12423 (E)

CONTENTS (continued)

(c) FREEDOM OF EXPRESSION

(d) INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY

(e) RELIGIOUS INTOLERANCE

(f) STATES OF EMERGENCY

(g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (continued)

The meeting was called to order at 10 a.m.

STATEMENT BY THE DEPUTY MINISTER FOR FOREIGN AFFAIRS OF SAUDI ARABIA

1. Prince Torki Ben Mohammed Ben SAUD AL-KABEER (Saudi Arabia) said that the purpose of the Commission was to enhance the status of the human person whom God had created and exalted. Successive ages had witnessed manifestations of man's injustice to man. The third millennium must be welcomed with optimism and unanimous agreement that human rights were a non-negotiable objective towards which all States must strive together.

2. Despite the progress made over the past 50 years in the development of international human rights mechanisms, grave violations of human rights persisted in many parts of the world. There was a need to develop current human rights concepts with reference to the humanitarian values enshrined in the various religions, civilizations and cultures of the world. Islam, like other religions, was clearly playing a leading role in that regard, since it continued to enrich the concepts of human rights through its noble moral values and principles and its comprehensive way of life, in which rights and obligations were defined in a just and equitable manner.

3. The Organization of the Islamic Conference (OIC) had recently adopted a resolution calling for the drafting of Islamic human rights instruments to supplement international endeavours in that area. His own country, for its part, could boast outstanding human rights achievements and looked forward to making ongoing improvements. His Government continued to cooperate with the Commission and had invited the Special Rapporteur on the independence of judges and lawyers to conduct an in situ mission to Saudi Arabia. It had also contributed to several voluntary funds established by the Office of the High Commissioner for Human Rights (OHCHR), including, most recently, the Plan of Action for the Convention on the Rights of the Child.

4. A government mechanism had been established to investigate allegations of torture and other individual abuses, in fulfilment of the country's obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The public was being sensitized to human rights, the emphasis being placed on the application of humanitarian principles. His country had also submitted its candidacy for membership of the Commission, thereby demonstrating the importance it attached to international cooperation on human rights issues.

5. As part of its comprehensive human rights strategy, his Government had also taken steps towards: the authorization of the establishment of an independent national body to publicize human rights and advocate the punishment of offenders; the establishment of human rights sections within various government ministries; and the adoption of new regulations governing the legal profession and legal counselling. Far from constituting a response to external factors, such achievements stemmed from his Government's natural concern for human rights.

6. In Saudi Arabia, equal rights were granted to citizens and foreign residents. The exercise of freedom of expression and assembly was not prohibited, providing it was neither prejudicial to public order nor detrimental to public morals. There were numerous channels through which

individuals could express their opinions in full freedom. In accordance with the country's traditional "open-door policy", all State officials were obliged to receive citizens and others, to hear their opinions and complaints and to find solutions to their problems. Dozens of governmental and non-governmental bodies in receipt of public support were engaged in charitable and social activities.

7. His Government attached great importance to the principle of tolerance. Non-Muslims enjoyed all the basic rights and freedoms guaranteed to Muslim residents. Moreover, they had full freedom to engage in their religious observances in private. No non-Muslims had ever been subjected to prosecution or punishment on religious grounds; indeed, it was a punishable offence to subject them to any interference or harassment.

8. The State's 7 million residents enjoyed all their rights and bore no tax burdens. They also had the unrestricted right to transfer their savings, which amounted to some US$ 17 billion in 1999. Moreover, new regulations allowed non-Saudis to own property and to invest in the local stock market.

9. All legislation applied equally to both sexes. Indeed, the Islamic shariah did not discriminate between men and women with regard to their duties and obligations. His Government was endeavouring to ensure that women enjoyed all their legally recognized rights and was pleased to report that educational enrolment among girls amounted to 95 per cent and female illiteracy had declined sharply to 15 per cent. The State also provided grants and appropriate accommodation for female students. Educational expenditure accounted for 25 per cent of the State's budget and represented 9 per cent of gross domestic product (GDP). Education - especially female education - constituted the cornerstone for the advancement and development of society.

10. It was a matter of concern that some members of the international community appeared to have difficulty in understanding human rights within the context of Islam. There was a need for constructive dialogue among the various civilizations and cultures, with a view to ensuring protection of the human person and human rights.

11. The Government of Iraq should cooperate with international bodies in efforts to establish the whereabouts of prisoners, detainees and missing persons of Saudi, Kuwaiti and other nationalities in Iraq. It was high time that the Iraqi Government found a solution to that humanitarian tragedy, which was of great concern to international, regional and local organizations alike.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

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(g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

(agenda item 11) (continued) (E/CN.4/2000/3 and Add.1-3, 4 and Add.1 and 2, 9 and Add.1-3, 54, 55, 56 and Add.1 and 2, 57-59, 60 and Add.1, 61 and Corr.1 and Add.1 and 2, 62, 63 and Add.1-4, 64 and Add.1, 65, 115, 125, 126, 132, 133 and 135; E/CN.4/2000/NGO/2, 6, 9, 10, 20, 27, 29, 33, 41, 45, 50, 60, 62-64, 78-81, 91, 92, 95, 104-106,111, 118, 126, 129-135, 138, 141 and 143; E/CN.4/Sub.2/1999/27; A/54/177 and Corr.1)

12. Mr. HUSSAIN (Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression), introducing his report (E/CN.4/2000/63 and Add.1-4), said that his task fell into three main categories. The first was sending communications to States concerning allegations of violations of the rights to freedom of opinion and expression. As in previous years, he had received a disturbingly large number of complaints, principally concerning writers or journalists. His report contained a trend analysis of the communications received. He could analyse only a minority of the 1,500 or so communications that he annually received from a variety of sources and in that context he noted that the staffing situation of his mandate had remained problematic. The support of the French Government and the recent announcement of funding from the Canadian Government were very welcome.

13. The second category was that of missions. He had undertaken four - to the Sudan, to Ireland, to the United Kingdom of Great Britain and Northern Ireland and to Tunisia. In the Sudan there were signs of positive interest in improving the human rights situation. The country had, however, a potential for unrest that exacerbated its human rights problems. On the one hand, there was the view that establishing a religious way of life would automatically produce stability and ensure respect for human rights, while, on the other hand, there was constant turmoil caused by the war between the north and the south. Unless the Sudan freed itself from its historical contradictions, force-feeding of human rights policies would remain wasted. A conceptual change had to be made.

14. Tunisia was a progressive State and the efforts that had been made to modernize the country should lead to social and political stability and thence to progress in human rights. There was, nevertheless, an inflammatory fundamentalist threat in the region. It was right to have safeguards against that, but not at the expense of freedom of opinion and expression. Tunisia had the leadership, means and will to become a model for other Arab States to follow.

15. Ireland was experiencing a radical social transformation. There was a firmer resolve to tolerate differences of opinion and to work towards pluralism. Outsiders and immigrants had been welcomed. Divergences of views were democratically discussed. The impact of developments in Northern Ireland would have to be watched to ensure that they did not vitiate the atmosphere of freedom of the press and expression.

16. As far as Northern Ireland was concerned, the parties to the dispute were still riddled with weaknesses and internal strains, and marked by a fundamental flaw of overlooking human values and compassion. Only the democratic process of freedom of opinion and expression could convince people of the inevitability of reconciliation. Although success was not a foregone conclusion, the freedom of the media made the prospects look hopeful. In Great Britain, freedom of opinion and expression remained a keystone of national life. In addition, a new agenda of cooperation with other European countries was being worked out to provide a common moral and legal foundation for the enjoyment of the right of freedom of opinion and expression in any of the countries. The United Kingdom was also preparing to end the regime of official secrecy in order to give greater access to information.

17. In 2000, he would be visiting Albania and Peru. With regard to other invitations, he drew attention to paragraph 18 of his report in which they were listed.

18. The third part of his task was to collaborate with other human rights mechanisms and strengthen cooperation with other institutions, especially the United Nations Educational, Scientific and Cultural Organization (UNESCO), as noted in paragraph 11. He had also issued a joint statement with the Special Rapporteur on freedom of expression of the Organization of American States (OAS) and the Representative on freedom of the media of the Organization for Security and Cooperation in Europe (OSCE), which would be found in annex I.

19. He had drawn attention to four issues that deserved particular attention. In the first place, he was concerned about the tendency of Governments to withhold information from the people. Secondly, he was alarmed at the number of communications received referring to accusations of libel and defamation against employees of the media. Such cases had a negative impact on freedom of expression and he supported the international bodies which vehemently opposed the threat of criminal proceedings in the case of defamatory statements. Thirdly, the police and criminal justice system should be improved in many countries. There was a growing number of complaints about police handling of cases in the area of freedom of expression. Justice should not be allowed to become a weapon in the hands of the prosecution. Fourthly, with regard to the new technologies, actions by States to impose excessive regulations on the grounds that they were necessary to preserve the moral fabric or cultural identity of societies were paternalistic. Moreover, inequalities of access to such technologies could lead to political and social exclusions tending to instability and explosive situations.

20. Countries should adopt a self-critical outlook to deal with certain deficiencies that had domestic causes and could be tackled at the domestic level. For instance, a number of countries had failed to respond fully to gender equality, sometimes owing to a misinterpretation of cultural and religious doctrines. Shortcomings in the judicial system were also an important issue. They related to the excessive time taken in handing out justice, the cost involved and the inadequate number of honest and competent judges. The powerlessness of justice with regard to State interference and organized crime was also a hindrance to human rights. Care must be taken that the judicial process was not allowed to become politics by other means.

21. Ms. ANDERSON (Observer for Ireland) commended the detail and diversity of the Special Rapporteur's report (E/CN.4/2000/63/Add.2). His visit had been most timely, for it was during periods of change, such as Ireland was currently experiencing, that it was most important

to ensure that basic principles and rights were respected. The report had been carefully studied by her Government, which attached the utmost importance to freedom of opinion and expression. A number of detailed comments had been made, which would be passed to the Special Rapporteur in written form.

22. In line with the Special Rapporteur's recommendations, draft legislation was at an advanced stage to enable Ireland to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination. The Department of Justice, Equality and Law Reform was also carrying out a major review of censorship laws.

23. In the interests of clarification, she noted that it was incorrect to state that the 1961 Defamation Act specified that newspapers and periodicals accused of libel had to prove that defamatory words employed were true. That obligation arose whenever the defence of justification was pleaded; it was a common law defence. However, the Defamation Bill was at an advanced stage of preparation and its provisions were likely to ensure greater coherence than before.

24. Mr. CUMARASWAMY (Special Rapporteur on the independence of judges and lawyers), introducing his report (E/CN.4/2000/61 and Corr.1 and Add.1 and 2), drew attention first of all to the report on his mission to Guatemala (E/CN.4/2000/61/Add.1), which had examined the state of the administration of justice, and in particular the independence and impartiality of the judiciary, allegations of threats to and intimidation of judges, prosecutors and lawyers, allegations of impunity in human rights related offences, the system of legal education, the revision of outdated laws, the incidence of lynching, and judicial reform. In principle, Guatemala had a well-balanced Constitution for a democratic Government. The independence of the judiciary was well protected. The Government had ratified several of the major human rights treaties. Implementation, however, had been dismal. The administration of justice had been devastated during the 34 years of armed conflict. The result had been incompetence, inefficiency, corruption, influence-peddling and associated ills. Public confidence in the administration of justice was at its lowest ebb. His recommendations should, if implemented, improve the situation.

25. He drew attention to the invitations extended by the Governments of Belarus, Mexico, Saudi Arabia and South Africa, mentioned in paragraphs 14 and 15 of the general report (E/CN.4/2000/61). The Government of Zimbabwe had also just informed him that it would welcome a mission.

26. He welcomed the increasing number of cases decided by the apex courts of countries, laying down the requisite norms for the protection of an independent judiciary, in accordance with international and regional standards. Such cases were noted in paragraphs 36 and 37. He also welcomed the fact that the issue of judicial corruption was being openly addressed, as noted in paragraph 29. The workshop of experts convened by the Centre for the Independence of Judges and Lawyers in February 2000 had formulated a policy framework for preventing and eliminating corruption and ensuring the impartiality of the judicial system. The United Nations Office for Drug Control and Crime Prevention would also shortly be convening a meeting with Chief Justices from Africa and Asia to address the issue.

27. Paragraph 338 contained a recommendation that serious consideration should be given to providing a monitoring mechanism to implement the Declaration on human rights defenders. The risks such people were exposed to were horrendous and many of the attacks on them could not be dealt with by existing mechanisms. The Commission owed it to them to defend them and to expose the perpetrators. He welcomed the draft resolution to that effect at the current session.

28. With regard to country situations, he drew attention to paragraphs 57-69, on his visit to Belgium, where he had been concerned about the composition of the Superior Council of the Magistracy. He welcomed the fact that the Council was currently composed of 50 per cent magistrates and 50 per cent Senate-appointed jurists, with a proper balance between the French- and Dutch-speaking colleges.

29. He further drew the Commission's attention to developments in Malaysia with regard to the implementation of the Advisory Opinion of the International Court of Justice on 29 April 1999 (paras. 196-207). If it was not implemented, the Government would be in breach of the Convention on the Privileges and Immunities of the United Nations. That a Member State, having previously held the Chair of the Commission, the Presidency of the General Assembly and currently a seat in the Security Council, could continue to flout international law, a binding opinion of the International Court of Justice and a resolution of the Economic and Social Council was beyond belief.

30. In previous reports, he had welcomed progressive decisions enhancing judicial independence by the Pakistan Supreme Court. He expressed concern at the fact that all judges had recently been ordered by the Chief Executive to take a fresh oath of office and that those who had failed to do so - including the Chief Justice - had lost office.

31. Paragraphs 270-272 dealt with the case of the police brutality suffered by a Nigerian human rights defender at the hands of the Swiss police in 1997. The Government Switzerland should pay him compensation.

32. Paragraphs 314-317 dealt with the unsolved murder of Patrick Finucane in Northern Ireland. In paragraph 336 he reiterated his recommendation that the Government should establish an independent judicial inquiry into the matter. After 11 years, the Government of the United Kingdom could not continue to stall. A thorough and independent investigation of the case in a timely manner might have saved the life of Rosemary Nelson, another courageous lawyer.

33. Mr. LARIOS OCHAITA (Guatemala) said that his Government would implement the recommendations contained in the Special Rapporteur's report (E/CN.4/2000/60/Add.1). Some measures had already been adopted.

34. The people had not approved the proposed constitutional reforms. The Supreme Court had therefore recognized indigenous customary law through the Community Justices of the Peace, who could deal not only with criminal cases but also with civil, family and labour cases, favouring alternative methods of resolving conflicts. It had also implemented the administration

of justice in local languages, appointing local judges fluent in those languages and taking on interpreters, many of them university students. It had introduced oral proceedings in civil, family and labour cases.

35. It was also preparing a uniform procedural code for which various judges and magistrates had already been trained in Guatemala and abroad. The Law on the Judicial Career had been in force since December 1999 and its General Regulations since 24 March 2000. The next step would be to set up the Standing Council of the Judicial Career, to which judges and magistrates would be called to elect representatives in April and May, and Judicial Discipline Councils, which would operate an oral procedure.

36. The Law on the Civil Service for officers of the court and administrative employees had been adopted and, since 15 March, applied. Both Laws established a process of appointment, selection and training on the basis of merit, academic qualifications and personal ability that would ensure total independence, honesty and efficiency among judges, magistrates and court officers. The civil jurisdiction for the prosecution of military personnel had been strengthened, as shown by the recent sentence passed in the case of Ms. Myrna Mack. Lastly, the procedure in civil, family and labour cases had been made simpler and more flexible, with most satisfactory results.

37. With regard to threats, intimidation and harassment, he said that, when the Supreme Court was informed that a judge had been threatened, it requested the security forces to provide protection, as in the recent case of a judge whose car had been attacked in Cobán, the judge had, astonishingly, survived. Such assistance was only at the request of the judge; the judiciary had no desire to establish a security force of its own. The Supreme Court was giving serious consideration to the recommendation that a commission be established to investigate cases of threats to and intimidation of judges.

38. With regard to life insurance for judges, the Supreme Court had put out three invitations to tender, but the insurance companies considered judges to be a high-risk proposition and no proposals had been acceptable. Work was being done on alternative plans, including international invitations to tender. All judges, not including magistrates, received social security in case of illness. The Court reimbursed 60 per cent of medical expenses.

39. The Law on the Judicial Career had institutionalized the training unit, which the Court was strengthening. It had also sought to bring judges under greater public scrutiny to ensure compliance with human rights. No judge had been accused publicly of violating human rights and all dismissals of judges had taken place in accordance with the due disciplinary process and for grave faults. As part of efforts to modernize the judiciary, a code of ethics was currently being drafted in line with international standards.

40. In areas where lynchings had occurred, the Supreme Court and the Ministry of Education - in collaboration with the United Nations Mission to Guatemala (MINUGUA) - had introduced educational programmes to raise awareness in schools and to train staff to deal with the issue. Workshops had also been held with broad community participation.

41. The Court had also recently signed a cooperation agreement with the United Nations Children's Fund (UNICEF) to promote implementation of the Convention on the Rights of the Child. As for gender equality, 40 per cent of the judges and magistrates were women.

42. The United Nations Development Programme (UNDP) and the European Union had provided valuable assistance in strengthening the institutional capacity of the judiciary, fighting corruption and improving access to justice.

43. Ms. GLOVER (United Kingdom) said that her delegation was delighted that the Special Rapporteur on the independence of judges and lawyers had met the Secretary of State for Northern Ireland in 1999 and had been able to have a full and frank discussion with him regarding the murders of Patrick Finucane and Rosemary Nelson. Her Government would be responding to his mission report (E/CN.4/2000/63/Add.3) in writing.

44. Mr. EL-MUFTI (Sudan) said that his Government looked forward to studying the report of the Special Rapporteur on the freedom of expression and opinion on his mission to the Sudan (E/CN.4/2000/63/Add.1) and would do so with open heart and mind and in a spirit of shared commitment to human rights. It had benefited greatly from the Special Rapporteur's vast experience. In particular, it welcomed his observation regarding the need for technical assistance to the Sudan in the field of human rights and the media.

45. At the recommendation of the Special Rapporteur, his Government had revised the Political Association Act of 1998. There would be transparency with respect to the introduction of any future legislation that might affect freedom of expression. Moreover, no efforts would be spared in investigating any acts of violence connected with the freedom of expression and in bringing those responsible to justice.

46. His Government also intended to promote the creation of additional independent newspapers and private media. It agreed with the Special Rapporteur that all discriminatory policies and practices against women should be eliminated and was in the process of encouraging transparent public debate on ratification of the Convention on the Elimination of All Forms of Discrimination against Women. A similar approach would be followed in respect of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

47. Mr. AMOR (Special Rapporteur on religious intolerance), introducing his report (E/CN.4/2000/65), said that a further 12 communications had been sent since its completion, bringing the total to 105 communications to 60 States. He drew the Commission's attention to the urgent appeals addressed to the Government of Iran (paras. 51-53) and to the Government of Iraq (paras. 54-55). A further urgent appeal had since been addressed to Iran regarding information confirming the sentencing to death of two Baha'is. The Government concerned had refuted that information, stating that the cases were still under consideration by the Supreme Court.

48. In addition to the replies from 23 States covered in the report, replies had been received from nine States, namely, Azerbaijan, Brunei Darussalam, China, Egypt, Indonesia, Iran, the Russian Federation and Viet Nam. He had also sent six further communications to States.

49. In situ visits continued to be a good way of promoting dialogue and understanding. In 1999, he had visited Turkey; his mission report would be presented to the General Assembly at its forthcoming session. A visit to Bangladesh was scheduled for 2000, while responses to requests for invitations were being awaited from, inter alia, the Democratic Republic of Korea, Indonesia, Israel, and the Russian Federation. An invitation had just been received from Argentina.

50. He drew particular attention to the visit he had made to the Holy See, which was described in Chapter IV of his report.

51. Among his conclusions and recommendations (Chapter V), he wished to stress the vital need for the prevention of intolerance and discrimination. In that connection, the General Assembly had shown interest in the proposed change in the title of his mandate from religious intolerance to freedom of religion or belief, terms of reference that would be more acceptable to a number of States.

52. Mr. PÉREZ-HERNÁNDEZ Y TORRA (Spain), having mentioned that his country would be hosting the International Consultative Conference of Experts on School Education with regard to Freedom of Religion and Belief, Tolerance and Non-Discrimination in Madrid from 23 to 25 November 2000, said that the promotion of the values of tolerance and respect for religions and beliefs and the defence of freedom of religion and belief by means of education, particularly in the schools, had been a long-standing aspiration of the Commission. His Government attached the greatest importance to the promotion of tolerance and respect for religions and beliefs and for their free and full exercise, and Spain had become a country in which all religions and beliefs flourished and were expressed freely, and in which efforts were made to promote a fruitful dialogue between the different religions and beliefs. His delegation hoped that the declaration that would emerge from the International Consultative Conference of Experts would serve to develop the Commission's work in promoting religious tolerance through school curricula.

53. Monsignor BERTELLO (Observer for the Holy See), expressing appreciation of the Special Rapporteur's visit to the Holy See in September 1999, said that on a number of occasions Pope John Paul II had described religious freedom as lying at the very heart of human rights and as making other personal and collective freedoms possible. There was concern, however, at the gap between theoretical acceptance of the principles involved, which were almost always recognized in national and international instruments, and their respect in practice. Cases of violations which had been brought to the Special Rapporteur's attention showed that believers were subjected to serious discrimination and sometimes persecution.

54. The Special Rapporteur had rightly drawn attention to the Holy See's activities in the area of inter-religious dialogue. During an inter-religious meeting on 23 March 2000 in Jerusalem, attended by representatives of the Jewish, Christian and Muslim faiths, the Pope had described religion as being the enemy of exclusion and discrimination, hatred and rivalry, violence and conflict. He had said that religion was not and must not be an excuse for violence, particularly when religious identity coincided with cultural and ethnic identity.

55. The Special Rapporteur had also noted the importance which the Catholic Church attached to schools and school curricula in nurturing a culture of acceptance, dialogue and respect for others. Through its network of educational institutions, in which pupils of different religions often sat side by side, the Church was anxious to contribute to the development of society through the technical and intellectual training of the young and the development of their personalities as a whole. As the Pope had said in India, education must help the young to discover the spiritual dimension of their lives and to learn the supreme values that would support the social fabric of their countries in the future.

56. Ms. JAHANGIR (Special Rapporteur on extrajudicial, summary or arbitrary executions), introducing her report (E/CN.4/2000/3 and Adds. 1 to 3), said that her mission to the former Yugoslav Republic of Macedonia and Albania in May 1999 (E/CN.4/2000/3/Add.2) had been aimed at gathering and assessing information on the situation in Kosovo but, regrettably, security concerns had prevented her visiting Kosovo itself. In the absence of an invitation from the Yugoslav Government, she had also been unable to extend her visit to Belgrade. After her mission - in June 1999 and March 2000 - she had received comments and further information from the Yugoslav Government which she had taken into account and would be reporting on after her follow-up visit to Kosovo. She would continue to monitor developments in the region closely, and hoped that resources would be made available so that she could plan her visit as soon as she had carried out those already scheduled.

57. She continued to be concerned about the culture of impunity in Mexico (E/CN.4/2000/3/Add.3), which gave rise to a vicious circle of violence, resulting in extrajudicial, summary or arbitrary executions. The Government of that country had transmitted comments and observations on her report, and the Federal Electoral Institute of Mexico had also sent her some information.

58. In November 1999, she had conducted a joint mission to East Timor together with the Special Rapporteurs on torture and on violence against women. The mission report (A/54/660) had been presented to the General Assembly in December 1999, and was submitted to the Commission as document E/CN.4/2000/115. She regretted that they had been unable to visit Jakarta, West Timor and other locations of relevance to their investigations due to the late consideration of their request by the Government.

59. In February 2000, she had undertaken a mission to Nepal at the invitation of the Government, a visit on which she hoped to report in the near future. She thanked the Governments of Turkey and Colombia for inviting her to visit their countries but regretted that the limited resources available to her mandate made it necessary to delay those missions.

60. There had been an alarming increase in the incidence of large-scale extrajudicial killings carried out by government security forces and by armed groups allegedly sponsored, supported or tolerated by Governments. The role of non-State actors in carrying out extrajudicial killings had increased as more and more oppressive Governments made use of militant forces to deal with individuals or groups challenging their authority. It was often difficult to establish the link between violent acts committed by non-State actors and the State, especially for ordinary citizens with few resources at their disposal, so the victims required the support of the international community. Human rights violations committed by government forces or State-sponsored

groups were often ignored or actively covered up by a country's justice system, in many instances resulting in a deeply entrenched culture of impunity which perpetuated human rights violations. In such situations the judicial system lost respect and legitimacy in the eyes of the people and of the law-enforcement agencies. non-governmental organizations (NGOs) had a crucial role to play in combating misinformation and raising public awareness.

61. While preparing her report, she had received a list of 133 documented cases of extrajudicial executions or death threats directed against human rights defenders which had occurred in the past year. Journalists were increasingly being exposed to death threats and actual killings.

62. Another cause for concern was the killing of women in the name of honour. There was clearly a pattern of deeply entrenched prejudice on the part of Governments, prosecutors and courts towards the victims of such crimes, who were often depicted as deserving their fate since they had "dishonoured" traditional, "moralist" values of society. State intervention was seriously lacking and, while the victims were punished, the perpetrators usually enjoyed total impunity.

63. Children were increasingly being exposed to violence and killings: there were continuing reports of their use in armed conflicts by Governments and militant groups supported by Governments. Children as young as 12 were reported to be participating in armed activities in the conflict in the Democratic Republic of the Congo.

64. In July 1999, she had sent a questionnaire to all States retaining the death penalty either in law or in practice. There was a gradual movement towards abolishing the death penalty, and a global consensus was close to abolishing it for children who were under 18 years of age when the crime was committed. Since 1990, the Islamic Republic of Iran, Nigeria, Pakistan, Saudi Arabia, Yemen and the United States of America were known to have executed persons accused of crimes committed when they were under 18. In many retentionist countries, legal proceedings in relation to capital offences did not conform to the highest standards of impartiality, competence, objectivity and independence of the judiciary, as required by the relevant international instruments.

65. In the past year, she had transmitted urgent appeals concerning 213 individuals and members of groups to the Governments of 42 countries. She had also sent allegations regarding violations of the right to life of more than 900 individuals to the Governments of 41 countries. Some Governments had replied only in part and 30 of them had not replied at all.

66. The situation in Chechnya was a cause for the gravest concern. She had sent repeated communications in the past year to the Government of the Russian Federation requesting investigation of alleged cases of extrajudicial killings with a view to bringing those responsible to justice. She had also requested that Government to invite her to visit Chechnya. She intended to continue to follow developments there closely in the months to come.

67. Mr. KRISAFI (Observer for Albania) said he noted the Special Rapporteur's conclusion that killings in Kosovo were "mostly carried out by forces under direct or indirect State control" (E/CN.4/2000/3/Add.2, para. 7). By highlighting the events of a year previously, she was

assisting in the understanding of the changes that had taken place in Kosovo. Two million Kosovars had won their freedom thanks to the international community. His delegation fully supported the Special Rapporteur's recommendations that the International Criminal Tribunal continue its investigations with a view to bringing perpetrators of violations of human rights and humanitarian law in Kosovo to justice, that the vicious circle of reprisals be brought to an end, and that civil society be rebuilt.

68. As for the allegations contained in paragraphs 15 and 25 of document E/CN.4/2000/3, his delegation wished to remind the Special Rapporteur that the Government of Albania had demonstrated its desire to cooperate by inviting her to visit the country. In its note of 8 February 2000, the Permanent Mission of Albania had provided the Special Rapporteur with full documentation and information concerning the incident referred to in her letter of 23 November 1999, explaining its circumstances in detail. The fact was that it constituted an ordinary, although serious and punishable, crime and not an extrajudicial execution. The perpetrators of the crime had been identified and were being prosecuted. To ensure that the truth was made manifest, his Government was fully prepared to cooperate with the Special Rapporteur, to place all necessary documentation at her disposal and to offer her all the facilities she might require to visit the country and undertake her own investigation of the incident in question.

69. Mr. DE ICAZA (Mexico) said that in the report on her visit to Mexico (E/CN.4/2000/3/Add.3) and in her conclusions and recommendations, the Special Rapporteur had clearly exceeded her mandate because she had dealt with electoral procedures and the role of national institutions such as the armed forces operating in accordance with the functions conferred on them by the Mexican Constitution. His Government was much concerned that, throughout her report, the detailed information it had provided to her had been omitted, leading to a lack of balance and objectivity and to recommendations for action that had already been taken or for measures that went beyond her mandate, such as the non-utilization of the armed forces in fighting organized crime.

70. In the case of her recommendation that the Government of Mexico should invite international observers to monitor general elections, the Special Rapporteur appeared to be unaware of the fact that international observers had monitored electoral processes in Mexico since 1994. Many of her recommendations were already on Mexico's national agenda before her visit. His Government would study those of her recommendations that corresponded to her mandate with a view to implementing those that were relevant and were not already being implemented.

71. The Special Rapporteur expressed special concern in document E/CN.4/2000/3 concerning violations of the right to life of individuals who had cooperated with representatives of United Nations human rights bodies and suggested that the death threats against a Mexican NGO, Centro de Derechos Humanos Miguel Agustín Pro Juárez, were the result of its having cooperated with her during her visit to Mexico. That was untrue. The threats in question were a matter of concern to the Mexican authorities, but there was no indication that they had anything to do with the Special Rapporteur's visit. The Centre was being protected and its

members had been given personal guards. Incidentally, the case was not a violation of the human rights of human rights defenders. The indications were that it might be a common crime, and the competent authorities were dealing with it.

72. Mr. RUTIJANWA (Rwanda) said that his country's Government of National Unity had put an end to the genocide that had killed more than one million people in 1994. The genocide had been perpetrated by the Government of the time with the active and massive participation of the population. The current Government was sparing no effort in dealing with its terrible consequences. It was faced with a very large number of victims and possible perpetrators of genocide. Rwanda's Genocide Organization Act had been implemented as a form of classic justice but with very sparse results. It had been estimated that it would take more than 100 years to deal with the more than 120,000 detainees currently in jails and communal detention centres.

73. At the initiative of the Rwandan population, a system based on traditional justice in Rwandan communities, known as gacaca, had been proposed as a method of participatory justice to complement the procedures of classical justice. After several months of consultations at all levels, a bill was with the Council of Ministers and would be presented to parliament for adoption which would introduce the gacaca system for crimes of genocide by complementing and modifying the Genocide Act.

74. The main objectives of the gacaca system were to involve the population in the administration of justice regarding the genocide to the same extent that they had been involved in the genocide itself either as perpetrators or as witnesses; to discover the truth about the crimes of genocide that had been committed; to root out impunity; to accelerate the trials, release the innocent and empty the jails; and to promote and facilitate national reconciliation. The gacaca judges would be elected by the local population from among the population on the basis of moral and legal integrity. The 10,000 or more gacaca jurisdictions, at the various administrative levels, would be overseen at the national level by the Sixth Chamber of the Rwandan Supreme Court.

75. The system would lead to the compilation of lists of the persons who were victims of the genocide, those who were perpetrators of the genocide and also details of damage to property; the categorization of crimes and of those who were accused; and the transmission of their files to higher levels. The thousands of gacaca judges would not be paid; they would be compensated for out-of-pocket expenses. The gacaca system had received broad consensus support from the Rwandan population.

76. The international community had been implicated in the Rwandan genocide, and was currently involved in the International Criminal Tribunal for Rwanda. It would also become more involved in post-genocide justice in Rwanda itself. The gacaca system of justice was to be seen as an addition to international jurisprudence regarding the crime of genocide and mass crimes in general. The first trials would be taking place later in the year, and it was the hope of his Government that representatives of the international community would be able to attend them.

77. Ms. INAYATULLAH (Pakistan) said that her Government was convinced that the devolution of power and empowerment of the people would give citizens a personal stake in decision-making and in such priority areas as development in particular. A devolution plan was

in the process of being pursued with a view to putting in place the first tier of a people's democracy. In a genuine effort to mainstream women and involve youth, the forthcoming direct elections at the village and rural level would reserve 50 per cent of seats for women, and the voting age had been reduced from 21 to 18.

78. The judiciary, which was free and independent, had been reformed as part of the devolution plan. Since the change of Government in 1999, there had been no changes in the judicial system, which remained transparent, independent and free of political pressure. International observers had free access to court proceedings. In recognition of the fact that enabling mechanisms for women were needed, and in order to make justice more accessible, special courts were being set up at the district level to deal with cases relating to women. A system for monitoring the performance of district and sessions judges was being developed, and it was expected that the current backlog of cases would be cleared within two months. Special measures had been taken for the protection of judges and lawyers, and a judicial commission of the Supreme Court had been set up to inquire into the circumstances that had led to the killing of the lead defence lawyer for the former Prime Minister. The death penalty had been abolished for children.

79. As had been acknowledged in the recently-published report by the Committee for the Protection of Journalists, there was freedom of expression and a completely free press in Pakistan. Independent broadcast media channels were being established. Convinced of the need to empower the people, her Government was attempting to put in place stable and unassailable civil structures and political institutions that would ensure democracy in the country.

80. Mr. VOTO-BERNALES (Peru) said that his Government had demonstrated its commitment to the thematic procedures, a cooperation that had been recognized in the reports of which the Commission was seized. The best form of cooperation that a State could provide was to make every effort, as Peru was doing, to implement the recommendations made by those procedures. An example of such cooperation was the mechanism being designed by his Government to remedy the difficult situation of persons who had been unjustly deprived of their liberty as a result of the application of anti-terrorist legislation. Various laws had been promulgated to combat human rights violations such as genocide, forced disappearance and torture, and measures were being taken to correct some of the excesses that had inevitably occurred during the past decade of terrorist violence. The political will of the country to recognize mistakes and ensure that they were not repeated had been amply demonstrated, and that could be considered as a contribution to the effectiveness of the system for the protection of human rights.

81. Cooperation was not a one-way street: there must be reciprocity. He had therefore noted with satisfaction that the thematic procedures were able to recognize their own deficiencies with regard to the management of certain situations and that the necessary corrective measures were being taken. He described two cases which demonstrated the shortcomings of the Working Group on arbitrary detention, and said that he hoped that no deliberate bad faith had been involved. Improvements to the system could be made only by strengthened reciprocal cooperation between States and the special mechanisms. The genuine efforts made by States must be recognized if the climate of cooperation and confidence necessary for the work of the thematic procedures to be fully effective was to be created.

82. Mr. LEGWAILA (Botswana) said that the legitimacy of his country's State and its institutions flowed from its people's right to free speech and freedom of expression, which ensured that the rulers were accountable. When such freedoms were curtailed, the legitimacy of the Government was called into question. The Constitution of his country protected freedom of conscience, and the peaceful co-existence of many different religions had strengthened democracy, peace and stability. Religious intolerance was a scourge which had led to serious abuses of human rights and many horrendous wars.

83. A truly independent judiciary was one of a democratic society's most important institutions with regard to the promotion of human rights. Botswana was fortunate in having a society based on the rule of law and a judicial system that was neither beholden to the Government in power nor dependent for its existence on an ideologically or politically determined electoral process. The Chief Justice and High Court judges enjoyed constitutional protection and were beyond the reach of political manipulation.

84. Botswana, in common with other civilized nations, was troubled by the impunity with which human rights and international humanitarian law could be violated, and had therefore joined the campaign for the establishment of international mechanisms designed to punish crimes against humanity and humanitarian law. Believing that such crimes were a form of human rights abuse, the punishment of which could not be left to the vagaries of individual national judicial mechanisms, his Government supported the Rome Statute on the establishment of an International Criminal Court.

85. Democracy in Botswana, and the peace and stability enjoyed in his country, were the result of its unflagging commitment to the enjoyment of all human rights by all its people, without regard to race, origin, political opinions, colour, creed or sex.

86. Mr. KADYROV (Russian Federation), described the background of current events in Chechnya and Dagestan, and his own personal role in those events. As Mufti of Chechnya, he also provided their religious background. He was surprised at current Western interest in the situation in Chechnya, when the first war fought there had been treated as an internal matter for the Russian Federation. Violation of human rights had indeed taken place in Chechnya, but people there were hopeful that the recent election of Mr. Putin as President of the Russian Federation would bring change and improvement. He expressed the hope that a peaceful political process would gradually succeed in bringing peace to the country, and called upon the international community to ensure that the question was dealt with appropriately.

87. Mr. BATCHELOR (United States) said that the issues dealt with by the Commission were important to the United States Government and public and, as a representative of the public, he would be able to report on the work of the Commission to his home constituents.

88. One of the most basic human rights was freedom of worship. It was therefore unacceptable to remain silent when faced with Governments that repressed people seeking to express their religious and spiritual beliefs and violated internationally accepted standards for freedom of conscience. The international community must demand an accounting from regimes that persecuted religious minorities. Such Governments included the Sudan, where Christians and traditional African believers were persecuted; China, where practitioners of Falun Gong

were jailed, Tibetan Buddhists and Muslim Uighurs were abused and Protestants and Catholics persecuted; Iran, where Baha'is and Jews were attacked; Iraq, where Shi'ites, Assyrians and Chaldeans were persecuted and their holy sites desecrated; Afghanistan, where the Taliban imposed stifling restrictions on women and girls, and the former Yugoslavia, where religious and ethnic hatred had been used by the regime in order to provoke four wars which had caused hundreds of thousands of casualties, driven millions from their homes and destroyed lives and livelihoods throughout the country.

89. Failure to condemn such barbaric practices would be an insult to the proceedings of the Commission. It was the Commission's goal to do everything possible to guarantee the human rights of every living person. Human rights violations must therefore be exposed, and decisive and principled action taken, regardless of the opposition. Until Governments respected their people, people would not respect their Governments and the vicious cycle of oppression and abuse would not be broken.

The meeting rose at 1.05 p.m.